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Letter dated 1 December 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities addressed to the President of the Security Council

In his letter dated 2 September 2005 addressed to the President of the Security Council (S/2005/572), the Chairman of the Al-Qaida and Taliban sanctions Committee transmitted the third report of the Analytical Support and Sanctions Monitoring Team and requested its issuance as a Security Council document. In the letter it was noted that the Committee was considering the recommendations contained in the report with a view to improving the established sanctions measures and their implementation.

Having completed its consideration of the recommendations, the Committee would like to bring to the attention of the Security Council its position on a number of the recommendations contained in the report. The Committee finds that many of the recommendations should be brought to the attention of Member States, as they can significantly improve their implementation of the sanctions measures. In this connection, the Committee would like to stress that the Monitoring Team is an independent body and that the Committee, while finding the recommendations a valuable source for consideration, has arrived at its own conclusions not necessarily shared by the Monitoring Team. The Committee wishes to use this opportunity to inform the Council of recommendations it is currently implementing.

The Committee expresses its appreciation to the Monitoring Team for its high-quality report and anticipates with interest the reports to be submitted by the Team in accordance with annex I to resolution 1617 (2005), the first in January 2006.

I. The consolidated list

The Committee continues to place great emphasis on the improvement of the quality of information on its consolidated list and requests all States to submit additional identifying information on individuals and entities already placed on it. The Committee also strongly urges States to submit new names of individuals or entities belonging to or associated with the Taliban or Al-Qaida. In this connection, the Committee points to the useful definition of the term "associated with" provided by the Security Council in its resolution 1617 (2005).

The Committee strongly supports the recommendation to render the list in both English transliteration and in the language of the original documents. The implementation of this recommendation will lead to greater accuracy and clarity of

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the list and thus to better implementation of sanctions. The Committee has already requested the Monitoring Team to work with relevant States in ensuring an accurate rendition of the names in their original language and hopes to update the list with that information before the end of December 2005.

The Committee has also agreed to replace the current numbering system, which changes each time an individual or entity is added, with a permanent reference number. The Committee believes that this will ease communication between Member States and the Committee. Due to certain technical issues, the implementation of this recommendation is, however, subject to the Committee's approval of a number of linguistic and technical corrections to the list submitted to it by the Monitoring Team.

II. Implementation of sanctions

In its drive to press for better implementation of the sanctions regime, the Committee also supports the Monitoring Team's recommendation that Member States be reminded of the meaning of a United Nations listing. A criminal conviction or indictment is not a prerequisite for inclusion on the consolidated list, and States need not wait until national administrative, civil, or criminal proceedings can be brought or concluded against an individual or entity before proposing names for the list. Delays in implementation of sanctions only serve to allow Al-Qaida or Taliban supporters an opportunity to circumvent sanctions.

As recommended by the Team, the Committee encourages States that have not done so to enact appropriate national legislation or other measures to allow the freezing of assets of parties on the list, without the need for criminal offences or criminal standards of evidence to be demonstrated. As noted by the Chairman in the Council on 20 July 2005, it has emerged from the reports of some Member States that there is a need to present sufficient evidence to judicial authorities as a condition for the freezing of assets. The Committee wishes to clarify that such a procedure is not in conformity with Member States' obligations under Chapter VII of the Charter of the United Nations. For this reason, the Committee urges States to ensure that assets can be frozen as soon as the Committee adds the name of an individual or an entity to its list.

III. Assets freeze

The Monitoring Team has provided a number of useful recommendations regarding the implementation of the assets freeze. The Committee notes that several recommendations are of a broad nature, which will be of use not only in the implementation of sanctions against Al-Qaida and the Taliban, but also in the general efforts to counter terrorism. The Committee will therefore forward the recommendations to the Counter-Terrorism Committee established pursuant to resolution 1373 (2001).

As recommended by the Monitoring Team, the Committee urges States to publicize the list and its purpose as widely as possible, such as in Government journals and via the Internet. The Committee believes that such actions will lower the risk that third parties, including non-bank financial institutions and non-financial businesses and professionals, act unwittingly in contravention of the assets freeze requirements.

IV. Arms embargo

As with the assets freeze, the Committee notes that the Team has provided a number of useful recommendations concerning the implementation and further improvement of the arms embargo and that some of these may be better dealt with by the Counter-Terrorism Committee or the Committee established pursuant to resolution 1540 (2004). The Committee has requested the Monitoring Team to continue to explore how the recommendations, including those relating to the threat of the use of chemical, biological, radiological or nuclear materials, can be made more specific to address the threat posed by Al-Qaida and the Taliban. The Committee looks forward to recommendations in this regard in the Team's forthcoming reports.

V. Travel ban

The Committee reminds States that they should submit updated information to it when they locate listed individuals within their territory, in order for this information to be shared and added to the list if appropriate. In this connection, the Committee again reiterates the importance of the list being as accurate as possible.

The Committee also supports the recommendation that States should improve or adopt measures to deal with evasion of the travel ban attempted through the issuance of new passports. Such measures could include a requirement that individuals applying for a new passport provide details of any previous identities and travel documents under those names, and mandatory monitoring (with possible referral to law enforcement) of cases of repeat passport requests by individuals.

VI. The Internet

The Committee notes with interest the Team's recommendations regarding the Internet and has requested the Team to continue its work in this regard. At the same time, the Committee acknowledges that a number of constraints could affect the adoption of new regulatory measures in this regard.

VII. Conclusion

The work of the Monitoring Team continues to provide the Committee with useful recommendations on the further improvement of the sanctions measures. The Team is also assisting the Committee with its analysis of Member State implementation of the measures already in place. The Committee strongly urges States to familiarize themselves with the reports of the Team, as they contain a breadth and depth of information relevant to their implementation of the sanctions against Al-Qaida and the Taliban.

This is the first written report of the Committee to the Security Council on the recommendations contained in reports of its Monitoring Team. The Committee expects that this report will prove to be useful in States' implementation efforts.

I would appreciate it if the present letter could be circulated to members of the Security Council and issued as a document of the Council.

(*Signed*) César **Mayoral**
Chairman
Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

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The Security Council, in paragraph 13 of its resolution 1526 (2004), requested the Committee, based on its ongoing oversight of States' implementation of the measures referred to in paragraph 1 of that resolution to prepare and circulate to the Council a written analytical assessment on implementation of the measures, including States' successes and challenges in implementing them, with a view to recommending further measures for the Council's consideration.

The Committee requested the Analytical Support and Sanctions Monitoring Team, established pursuant to Security Council resolution 1526 (2004), to provide an analysis based on all reports submitted by Member States pursuant to Council resolution 1455 (2003), reports from the Team's and the Chairman's visits to selected States, contacts with Member States and the Team's contacts with the Counter-Terrorism Committee, the Counter-Terrorism Committee Executive Directorate and other sources. The analysis was provided to the Committee on 11 July 2005 and its entire text appears in annex I to the present letter. The Committee herein refers to the factual information as it is stated in the Team's analysis.

The Committee expresses its appreciation to the Monitoring Team for the highly professional quality of the analysis. It has been a valuable tool for the Committee to arrive at its own conclusions.

Since 11 July 2005, when the Monitoring Team completed its analysis, four more Member States have submitted their reports pursuant to resolution 1455 (2003): Bhutan, Cameroon, the Niger and the United Republic of Tanzania. In addition, the Chairman has visited two States, neither of which has reported, and the Team has visited six States, two of which have not reported. The Team has also had contacts with the representatives of a further 22 States in New York and at a regional conference, of which 11 have not reported. These contacts tend to confirm the general observations made in the Team's analysis, but an updated assessment of the information will be submitted in accordance with paragraph 17 of resolution 1617 (2005).

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Also since 11 July 2005, four Member States have submitted names for inclusion on the list, and three States have provided additional information for names already on it. Three Member States' submissions of names have been approved by the Committee, and additional information on existing entries from two States has been added to the list. In addition, two submissions made before 11 July 2005 have now been approved by the Committee — one, however, only partially, with the rest of the submission still under consideration. Furthermore, the request from one Member State for the delisting of an individual has been approved by the Committee.

I. The consolidated list

The Committee continues to place great emphasis on the improvement of the quality and quantity of information on its consolidated list. The Committee has thus accepted 146 amendments concerning 63 names and is considering many others. The Committee requests all States to submit additional identifying information on individuals and entities already placed on the consolidated list and also strongly urges States to submit new names of individuals or entities belonging to or associated with Al-Qaida or the Taliban. In this connection the Committee points to the useful clarification of the term "associated with" provided by the Security Council in its resolution 1617 (2005).

The Committee stresses the importance of submitting States providing sufficient background information to allow for the listing of an individual or entity. The Committee also notes the clarification in resolution 1617 (2005) concerning the use of statements of case submitted to the Committee. The Committee is currently considering the addition of a considerable number of names. As at 1 November 2005, the addition of 139 individuals and 1 entity, submitted to it over the past years, is pending Committee approval. The Committee is also still considering more than 500 technical corrections submitted to it by the Monitoring Team. The Committee strives to resolve these outstanding issues by reaching a positive, or negative, decision as appropriate. It is aware that the lack of response may affect the credibility of the Committee and its work.

The Committee is aware of the importance of the circulation of the consolidated list and that the proper implementation of sanctions measures depends on Member States circulating the consolidated list to all appropriate authorities, intelligence agencies, designated non-financial entities and professionals as relevant. The Committee anticipates that circulation of the list will be further improved by the enhanced cooperation with Interpol. Interpol, at its 74th General Assembly, in September 2005, adopted resolution AG-2005-RES-05 on cooperation between the United Nations and Interpol, which creates a special notice for individuals on the consolidated list that Interpol can issue at the request of the Committee and that will alert States that certain individuals are the targets of United Nations sanctions.

II. Implementation of sanctions measures

The Committee notes that 65 Member States have addressed the problem of sanctions not being implemented against certain entries on the consolidated list because there are insufficient identifiers. The Committee expects the quality of information on the consolidated list to improve the additional efforts referred to

above. The Committee has also decided to render the list in both English transliteration and in the language of the original documents. It is expected that this will significantly improve implementation and also address concerns regarding the accuracy of the transliteration. The Committee has also agreed to replace the current number system, which changes each time an individual or entity is added to the list, with a permanent reference number. The Committee believes that this will ease communication between Member States and the Committee.

The Committee has noted with regret that at least 12 States have complained of a lack of response when they have asked for additional information on listed individuals and entities. Clearly, sanctions can be properly implemented only if Member States are certain about the identity of a listed individual or entity. The Committee has asked the Monitoring Team to assist in clarifying whether the lack of responsiveness is due to the Committee's procedures or if it is caused by Member States not submitting information as requested by the Committee. The Committee will also seek to remedy any perception of lack of responsiveness on its part.

The Committee notes that there seems to be a general misunderstanding in some Member States that national criminal proceedings are necessary in order to freeze assets. It must be stressed that Member States are under an obligation to freeze assets as soon as an individual or entity is added to the list and that no discretion is left with, e.g., national courts in this regard. The Committee also notes that criminal conviction or indictment is not a prerequisite for inclusion on the consolidated list, and Member States need not wait until national administrative, civil or criminal proceedings can be brought or concluded against an individual or entity before proposing a name for the consolidated list.

In its analysis, the Monitoring Team has noted that at least 31 States have set up national committees or other mechanisms in order to bring together all relevant agencies to discuss counter-terrorism issues. The Committee finds that this is a relatively low number, but hopes that this may be due to the fact that many of the Member State reports were submitted to the Committee almost two years ago. The Committee also notes that some States may have omitted to submit information on their national committees, as the guidance issued by the Committee to assist States in preparing their reports did not specifically ask States for this information. The Committee strongly recommends that Member States set up such national bodies to coordinate and discuss counter-terrorism issues.

III. Non-reporting

The Committee notes with concern that there are still 47 non-reporting States. The Committee will dedicate more time to ensuring that submitted reports are of a quality that will allow it to properly gauge the level of implementation by Member States. The Committee recognizes that non-reporting might be a sign of a general "reporting fatigue" caused by the number of reports that Member States have had to submit to the Committee, the Counter-Terrorism Committee, the Committee established pursuant to resolution 1540 (2004) and other United Nations bodies.

The Committee accepts that a general problem for some Member States is the lack of capacity to fulfil their reporting obligations. The Committee noted that Samoa, speaking on behalf of the Pacific Islands Forum member States, formulated such concerns during the joint briefing to the Security Council by the Chairmen of the Al-Qaida and Taliban sanctions Committee, the Counter-Terrorism Committee

and the Committee established pursuant to resolution 1540 (2004), held on 26 October 2005. It was noted that some Member States have limited resources and many pressing priorities, making it hard for them to meet reporting requirements.

The Chairman's recent visit to selected States in sub-Saharan Africa also showed that the Committee needs to dedicate more time to the matter of how implementation is ensured in Member States which do not have the capacity to live up to their reporting obligations. In this connection the Committee would like to remind Member States that the Counter-Terrorism Committee Executive Directorate can establish contact between States with capacity needs and those in a position to provide such assistance, including help to fulfil their reporting obligations. A number of Member States have already offered to approach States with less capacity to help them meet their reporting obligations, and the Committee welcomes these initiatives and will help coordinate this effort, e.g., through a regional mentor approach. The Committee is also considering the possibility of collective regional reporting and has asked the Monitoring Team to further examine this option.

The Committee underlines that it is of great importance that Member States live up to their reporting requirements. The reports provide the Committee with useful insight into Member States' implementation and also give Member States an opportunity to relate successes and concerns, as well as technical assistance needs. The Committee will look at Member States which have received technical assistance but where there has been no improvement in the implementation of sanctions.

IV. Work of the Committee

The Committee is pleased that Australia, the Netherlands, the United Kingdom of Great Britain and Northern Ireland and the United States of America appeared before the Committee as provided for under paragraph 11 of resolution 1526 (2004). They presented useful examples of best practices and highlighted some general problems related to implementation of sanctions. The Committee also received a very interesting briefing by the European Union Counter-Terrorism Coordinator, Gijs de Vries, concerning issues relevant to the Committee's mandate. The Committee hopes that more States will use the opportunity under paragraph 14 of resolution 1617 (2005) to update the Committee on their implementation of the measures or clarify issues of concern.

Member States are also encouraged to keep the Committee informed of specific measures adopted to advance the implementation of sanctions since they submitted their reports pursuant to resolution 1455 (2003). In a similar vein, Member States are also called upon to inform the Committee of action taken with regard to listed individuals and entities using the checklist included in annex II to resolution 1617 (2005).

V. Conclusion

This analytical assessment clearly shows that there is still a need for Member States to further improve their implementation of sanctions. The Committee also continues to place emphasis on the submission of reports from Member States. The Committee will redouble its efforts with regard to such submissions as it sees these reports as being of continued relevance in its dialogue with States. The Committee is working with the Counter-Terrorism Committee and the Committee established

pursuant to resolution 1540 (2004) to address States that have problems submitting timely reports to all three Committees.

The Committee also takes note of suggestions for improvement in the work of the Committee expressed in Member State reports and communicated to the Chairman of the Committee and the Monitoring Team during their visits to selected States. The Committee continues to strive towards more efficient and transparent working methods and is, in this connection, in the process of revising its guidelines.

I would appreciate it if the present letter and the analytical assessment could be circulated to members of the Security Council and issued as a document of the Council.

(*Signed*) César **Mayoral**
Chairman
Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Annex I

Paragraph 13 assessment

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I. Introduction

1. This report has been prepared by the Monitoring Team to help the Committee meet the Security Council's request - in paragraph 13 of resolution 1526 (2004) - for an assessment of the implementation of the UN sanctions on Al-Qaida, the Taliban and their associates.

2. Much of the Team's October 2004 analysis of the reports provided to the Committee under resolution 1455 still holds true, but there is more to say on how States have dealt with the Consolidated List of Individuals and Entities to whom the measures apply, on how they have implemented the measures, and on whether they have taken action in respect of non-mandatory measures.

3. The Team's conclusions are drawn from all the evidence available, whether from the 1455 reports or from direct contact with Member States. The evidence is detailed and timely in some respects, but many States have given little or no information, and as there is no mandatory requirement on States to supply updates, it may be incomplete and dated in others. The report also looks at assistance needs, as identified by States, and the issue of non-reporting.

II. Sources for assessment

A. Resolution 1455 (2003) reports

4. Resolution 1455 (2003) requested all Member States to report on their implementation of the measures imposed by resolutions 1267, 1333 and 1390 on designated Al-Qaida, Taliban and associated individuals and entities. In March 2003, the 1267 Committee issued Guidance to help Member States prepare their reports. The deadline for reporting was set at 17 April 2003, later extended to 31 March 2004.

5. As at July 2005, 140 States had responded, with at least 91 largely following the Guidance. While these reports provide an invaluable guide to Member States' implementation, they have various drawbacks. Many are now dated: 90 were submitted in 2003; 43 in 2004, and only seven in 2005. During this time the nature of Al-Qaida and the Taliban has changed and there has been a considerable amount of international activity relevant to the sanctions regime. Some Member States' reports offer a great deal of detail while others do not. 51 Member States have still not submitted a report.[1]

6. 109 States responded to all three sections concerning implementation, but the remaining 31 failed to give sufficient information to permit any assessment of their implementation of the sanctions regime. 123 States responded to Part I of the Guidance on the threat assessment; 124 States responded to Part II on the Consolidated List; 131 States responded to Part III on the financial and assets freeze; 117 States responded to Part IV on the travel ban; 113 States responded to Part V on the arms embargo, and 97

[1] An additional report has been received (on 11 July), but too late for this assessment. A list of the non-reporting States is in annex II.

States responded to Part VI on the need for assistance. 18 States lacked the resources, mechanisms, or will to do more than provide a token report.

B. Reports on trips

1. Chairman's trips

7. The then Chairman of the 1267 Committee, Ambassador H.E. Heraldo Munoz, visited 11 States in 2004: Algeria, Tunisia, Spain and Senegal in May 2004; the Philippines, Cambodia, Thailand and Australia in October 2004; and Libya, Iran and Switzerland in December 2004. The current Chairman, Ambassador H.E. Cesar Mayoral, has visited three States: Germany, Turkey and Syria as well as the EU in Brussels (April/May 2005).

8. These trips have proved useful in that all 14 States, plus the EU, provided new information as a result. The Chairman was also able to strengthen States' commitment to the sanctions regime and to discuss issues of common concern at a high level.

2. Monitoring Team trips

9. The Team has made field trips to 26 States: Afghanistan, Burkina Faso, Egypt, France, Ghana, Indonesia, Kenya, Libya, Malaysia, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, the Philippines, Russia, Saudi Arabia, Singapore, South Africa, Sudan, the United Arab Emirates, United Kingdom, Tanzania, United States and Yemen. Nine of these States had not submitted a report under resolution 1455. Three have since done so, with two more assuring the Team that their report is almost ready. During its visits, the Team met both the national bodies responsible for oversight of the sanctions regime and those most engaged in dealing with the threat from the Taliban and Al-Qaida on the ground.

10. The Team's trips focussed on States which face a high level of threat, which have particular knowledge of the threat or which it deemed vulnerable to the threat. All States visited have demonstrated commitment to the sanctions regime, but some are struggling to implement the measures, mainly through the lack of capacity. All have added useful information.

C. Contacts with Member States

1. Paragraph 11 briefings to the Committee

11. Four States have appeared before the Committee as provided for under paragraph 11 of resolution 1526 (2004). These States are all fully behind the sanctions regime and their presentations have provided useful examples of best practice as well as highlighting problems with implementation that affect all States. One State also explained its programme to increase the capacity of other States to implement the measures.

2. Monitoring Team meetings with States

12. The Team has attended 15 regional and international meetings during which it discussed issues relating to implementation with 56 States, and the successes and challenges they had experienced in dealing with the threat posed by Al-Qaida and the Taliban. Twenty nine had not reported under resolution 1455, subsequently six have done so. The Team has hosted visiting delegations from 10 States, which have invariably included officials with direct responsibility for the implementation of the measures. It has discussed the work of the Committee with the UN Missions of 43 additional States, of which 24 had not submitted a report.

13. Team meetings with States in the margins of international meetings have proved particularly interesting as a result of their impromptu nature. When the Team visits States by arrangement, relevant officials have the time to prepare and to re-familiarise themselves with the various resolutions. At international meetings the Team has been able to judge a State's awareness of the sanctions regime without the benefit of preparation. In general the Team has found a high level of commitment to the work of the 1267 Committee and a generally encouraging awareness of the List and the measures.

D. Monitoring Team contacts with the CTC/CTED and other sources

14. All Member States have reported at least once to the Counter Terrorist Committee and some as many as five times. While the focus of resolution 1373 reports is different from that of resolution 1455 reports, they reveal much about a State's capacity to implement the measures. The CTC experts have been generous in adding their comment, both with regard to States that they or the Team have visited or plan to visit, and with regard to other States. In addition the Team has exchanged information with the 1540 Committee experts, the Somalia and Liberia experts, as well as with relevant non-governmental and academic organisations.

III. Consolidated List

A. Circulation

15. The proper implementation of the sanctions regime depends on Member States circulating the Consolidated List[2] to all appropriate authorities. The treatment of the List by States is therefore a useful indication of their determination to implement the measures. One hundred and forty six States, including non-reporting States, have said that they circulate the List (and any changes) to banks and, to a certain extent, to other financial institutions, as well as to ports of entry and other relevant authorities, but visits reveal that in many States the circulation of up-dates is slow, especially to border

[2] The Consolidated List of Individuals and Entities belonging to or associated with the Taliban and Al-Qaida Organisation as established and maintained by the 1267 Committee.

posts. Better technology would help in some cases, but often States lack the infrastructure to allow any quick solution. Some States have found it hard to deal with changes to the List without reissuing the whole thing and this too has led to delays, as has the need in some States for translation before circulation.

B. Provision of information for the List

16. Since the beginning of 2004, 21 Member States have submitted names for inclusion on the List, and 23 States have provided additional information for names that already appear. Sixteen Member States' submissions of names have been approved by the Committee, and additional information on existing entries from 13 States has been added to the List.

C. Requests under resolution 1452 (2002)

17. Since the beginning of 2004, the Committee has received 21 requests for exceptions pursuant to Resolution 1452.[3] Of these, the Committee has approved 19, and two remain on hold. The approved requests authorize payments for a variety of items, including for basic expenses and accommodation (13 requests), extraordinary expenses (two requests), legal representation (three requests), and the sale of a home to settle an outstanding mortgage debt (one request). The two requests on hold seek authorisation for access to frozen funds for the same individual, including for the payment of legal expenses.

IV. Implementation of the measures

A. Implementation

1. Financial measures

18. Information from States suggests that financial sanctions are having an effect. The designation of non-profit organizations that had previously provided funds to Al-Qaida, and more rigorous scrutiny of transactions in the formal banking system, may have forced Al-Qaida cells to rely more heavily on local criminal activity to finance their operations, rather than on money from elsewhere within the organisation. Large sums, while not critical to the success of an attack, are now less likely to be available.

19. Thirty two Member States have reported freezing assets of listed individuals and entities worth in total over $91 million[4] (five have not specified the amounts). How this relates to Al-Qaida/Taliban's past or current resources remains unclear, and the

[3] The Committee received three requests between passage of resolution 1452 in December 2002 and the end of 2003. One was approved, one was withdrawn after the Committee asked for more information, and one remains on hold after the Committee requested additional information.

[4] At June 2005 exchange rates. The amount fluctuates as many frozen accounts are in other currencies.

amount might have been higher were it not that the whereabouts of 92 individuals on the List are unknown, and that 20 entities are recorded as present in Somalia, where there is no government authority capable of implementing the sanctions. Over 100 States have reported searching for assets but have found none.

20. Based on their resolution 1455 reports, 117 States have a clearly identified legal basis to freeze assets or otherwise prevent the financing of terrorism. According to the Team's analysis, there are three primary methods by which States legally implement the assets freeze. The variety of legislation used by States reflects different legal traditions, but also causes variations in the flexibility and practicality of asset freezing measures.

21. Approximately one third of reporting countries have adopted legislation or regulations that automatically impose the assets freeze upon listing by the Committee and issuance of a routine regulation by national authorities. A smaller number authorise the executive to name parties whose assets are to be frozen, with a UN listing frequently a criterion for national designation. Most of the remaining reporting countries appear to rely on their criminal codes for freezing actions. In these systems, the State often has to present to a judge or enforcement authority sufficient evidence of a specific criminal offence to freeze (or maintain an emergency freeze) of assets.

22. This last method is generally unsatisfactory as it may require local court approval prior to freezing the assets of UN-listed parties and so would allow judges to second-guess the decisions of the 1267 Committee and provide them a potential veto over Chapter VII decisions of the Security Council. Furthermore, these local courts would judge UN listings based on criminal standards of evidence, despite the fact that the List is not a criminal list. At least one State needing judicial orders based on criminal standards has reported that it was unable to freeze the assets of a listed party because its courts required additional evidence, apart from the fact of the UN listing. Other States are not able to impose indefinite freezing orders and must show that an official investigation or judicial proceeding has begun in order to continue freezing beyond a set period, producing appropriate evidence in support.

23. States may also be split into three groups with regard to their practical ability to impose the assets freeze: over 65 that are fully able to do so; about 50 with an adequate system, and about 35 that appear to find implementation difficult and need technical assistance to reach the required level. To a large extent, the better the implementation of the financial measures, the greater the involvement in other international action against illicit financial flows. Engagement with FATF, anti-corruption controls, international co-operation in financial investigations and ratification of anti-terrorism related international conventions all appear to improve the general regulatory environment in States.

24. One hundred and forty six States have said that they circulate the List to banks, and 125 to non-bank financial institutions (NBFIs). However notification of the measures

to designated non-financial businesses and professionals (DNFBPs)[5] continues to lag as only 44 reporting States say they have done so and there appears to be no consistency as to what type of DNFBP should receive it; 109 States did not provide any information about DNFBPs. There is also very little information concerning the circulation of the List to charities or their overseas branches.

25. Obligatory Know Your Customer and Suspicious Transaction Report requirements have been introduced for banks by 117 States, and extended to NBFIs by 105 and to other entities by 40. Only 24 States require charities and other non-profit organisations to report suspicious transactions. Over 100 States have established a Financial Intelligence Unit (FIU).[6]

2. Travel ban

26. One hundred and thirty Member States have said that they have the legal means to implement the Travel Ban. Thirty nine States have said that they adopted new regulations to do so, 30 that they revised existing legislation, and 59 that their existing legislation can accommodate the travel ban measures. Four Member States indicated that they may lack the necessary legislation, and seven have not provided any information on this point.

27. The Consular offices of 75 Member States have no access to national stop-list databases, and must submit all visa applications to their capital for further checking. Nonetheless, the authorities responsible for adding the names of persons or entities to the national stop-list database reported that they did so, and that the checking procedures were therefore conducted against up-to-date information. Whilst two States have given specific examples of measures taken to prevent the use of false or stolen passports, and this is a current area of work for many States including the 180 UN members of Interpol, this remains an area of concern.

28. The principal challenge to the proper implementation of the travel ban has been identified by a great number of States as the lack of detail for many entries on the List. This deficiency makes it difficult for States to add the names to their national databases as most require a minimum of identifiers in excess of that often supplied.

3. Arms embargo

29. All reporting States believe that they have effective protection against listed individuals or entities acquiring arms, but only 38 Member States have said that they have made changes to existing laws and regulations to incorporate the arms embargo

[5] DNFBPs include, for example, accountants, attorneys, trust administrators, registrars of businesses, tax agents, financial advisors, auto-dealers, dealers in antiques and artworks, dealers in precious commodities, real estate agents and travel agents.

[6] The role of a FIU is to analyse Suspicious Transactions Reports filed by financial institutions and other obligated non-financial entities and to disseminate that intelligence to appropriate national authorities for investigation or prosecution.

measures; 106 States did not refer to the Consolidated List when describing their regulatory processes.

30. Seventy three Member States have provided information on their local market regulations and 89 States have reported that they have reviewed their import/export procedures to ensure that they conform to Security Council requirements. Seventy one States have also described their arms brokerage systems, though most without explaining how these systems are used to prevent the acquisition of arms by listed individuals and entities. Fifty four States reported having safeguards to ensure that the weapons and ammunition produced within their jurisdiction could not be diverted for the use of those subject to sanctions.

31. Although the majority of States reported that they have legal measures regulating the traffic, acquisition, storage, and trade in arms, in general States have not provided sufficient detail to establish whether they have actually taken all necessary measures to implement the arms embargo.

32. Two States have given examples of action taken to prevent arms reaching terrorists, but it is not clear that any intended recipient was on the Consolidated List.

B. States' successes and best practices

33. The Team notes that at least 31 States have set up national committees or other mechanisms that bring together all relevant agencies to discuss counter-terrorism issues. These States are generally much more effective in their implementation of the measures than those that lack such coordination mechanisms. Some States have instituted rehabilitation or reconciliation programmes to encourage terrorists to reintegrate with society.

34. There is also a growth in regional counter-terrorism centres where best practices with regard to implementation of the sanctions can be established according to the particular conditions that pertain.

35. Four States have reported their efforts to register and regulate charities, and two have explained how they offer help to other countries in this regard. One State has recorded some success in encouraging the voluntary registration of alternative remittance systems. Another State requires banks and other relevant bodies to report to the authorities within 10 days of freezing the assets of listed individuals and entities. Over 100 States have FIUs which appear invariably to increase a State's ability to uncover assets and illegal transfers, three of these States offer assistance to others in establishing such units.

36. Over 30 States have already begun to incorporate biometric identifiers in their travel documents. Two States have provided information on their port and container security measures, and these are now being adopted more widely.

C. Areas of concern and challenges

37. The most common difficulty cited concerning implementation relates to the List. Sixty five Member States have said that sanctions cannot be implemented against certain entries on the List without sufficient identifiers. More than 50 States have mentioned the need for due process and transparency in the Committee's listing and/or de-listing procedures. At least 12 States have complained of a lack of response when they have asked for additional information on listed individuals and entities, with more seeking greater co-operation between Member States and with the Committee. The Team is aware of 15 lawsuits filed in five Member States, as well as before the European Court of Justice, challenging Member States' implementation of some aspect of the sanctions. Other cases have been filed or decided in several other countries that, while not challenging the sanctions, involve individuals or entities on the Consolidated List.

38. Several States have expressed general concern about States granting political asylum to individuals sought by other States in connection with terrorist crimes. Others have worried that listed individuals may have time to move their funds beyond the reach of the authorities before the listing notification is received. States have asked for clarification of certain terms with respect to listing, such as 'associated with'. Some States are concerned that terrorists are able to reduce the practical impact of the sanctions regime through the use of the Internet.

39. Other problem areas concern capacity-building, such as the lack of electronic equipment or the need for training, and the difficulties faced by States in areas of instability or conflict. Lack of political will may be another factor limiting implementation, though no State is likely to admit to less than wholehearted commitment against Al-Qaida and Taliban terrorism.

D. Action on non-mandatory measures

1. Paragraph 4 of resolution 1526 (2004): cutting the flow of funds to listed individuals and entities

Non-profit organizations/charities

40. Few reporting States have provided information on the measures they have in place to prevent the abuse of charities or other non-profit organisations (NPOs). But 63 require NPOs to obtain a license or to register. Only 46 States ask NPOs to file regular financial reports. In many cases official oversight applies only to organisations that have received public financial assistance. A very few States have introduced additional safeguards such as limiting overseas charitable assistance to goods and services or coordinating such assistance through a central agency. One or two States have shown concern that by freezing the assets of a listed NPO, they would be unable to fund projects under their control such as orphanages, hospitals or refugee centres.

Alternative/informal remittance systems

41. Information provided by States shows that 71 require money transmission services to acquire a license or to register, with 65 applying suspicious transaction reporting rules to registered/licensed money transmitters. Informal money transfers systems are outlawed in 49 States but these systems are here to stay, especially in cash-based economies, and over-regulation may push them further out of sight.

2. Paragraph 5 of resolution 1526 (2004): trans-border movement of currency

42. Despite the impact of stricter banking regulation, terrorists are believed by many States to continue to move money between jurisdictions and it is assumed that they may use cash couriers to do so. The move towards regulation has been gradual, but heightened concern over money-laundering, and in particular its role in financing international crime and terrorism, has led to some progress. In 2003 an Economic and Social Council survey of 117 Member States found that 82 required the declaration of cash being transported across their borders in excess of a specified limit. A recommended international standard on cash couriers was agreed by FATF in October 2004.

3. Paragraph 11 of resolution 1526 (2004): States' meetings with the Committee

43. Four States have appeared before the Committee. Other States may have forgotten that they have this opportunity to up-date the Committee on their implementation of the measures and/or clarify issues of concern, or may have hesitated to do so for fear that they might face cross-examination.

4. Paragraph 14 of resolution 1526 (2004): States' cooperation with the Committee and the Team

44. The Committee, whether directly or through the Team, has built a collaborative relationship with a wide range of States. It has also discussed relevant issues with organisations such as the G8's Counter-Terrorism Action Group (CTAG), the Organisation for Security and co-operation in Europe (OSCE), the International Atomic Energy Authority (IAEA), the UN Office for Drugs and Crime (UNODC), the World Customs Organisation, the International Organisation for Migration (IOM), the International Civil Aviation Organisation (ICAO), Interpol, the International Monetary Fund and the Organisation for the Prohibition of Chemical Weapons. For example, through CTAG the Team gathered information on UK, German, Canadian and Russian regulation of charities and other non-profit organisations, and on document security and border security issues. UNODC has provided information on terrorist financing through the drug trade. OSCE has shared its assessment of the illicit arms trade in Afghanistan, Central Asia, Eastern Europe and the Caucuses. IAEA has explained its Illicit Trafficking Database on nuclear and radiological materials. ICAO has discussed biometric standards for travel documents. IOM has added to this. Interpol is studying how it might help the Committee through the incorporation of the List in its databases.

5. Paragraph 15 of resolution 1526 (2004): coordination and exchange with CTC

45. There has been much informal exchange between the experts supporting the two Committees, in particular before and after trips to States of joint concern. In addition, the CTC has invited the 1267 Committee to attend three meetings where issues of common interest were discussed. The Team attended the CTC 4th Special Meeting in Kazakhstan for discussions on the crucial role of FIUs and international cooperation in implementing the assets freeze, and on the effect of national and international banking controls on terrorist financing; issues related to the arms embargo and travel ban, such as container security and border controls were also raised. The Team has briefed CTED on its proposed document and information management system to which they too will have access.

6. Paragraph 18 of resolution 1526 (2004): Informing individuals and entities on their listing

46. At least one State has written to the Committee to say that it had informed two individuals of their listing, and another indicated to the Chairman that it had taken such action. Others are believed to do so, but the Team has received no further information from States on this point, or whether they tell individuals and entities when they are listed about the measures imposed on them, and of the Committee's guidelines and the exemptions under resolution 1452 (2002).

7. Paragraphs 20 and 21 of resolution 1526 (2004): updates on legislation and enforcement

47. Presently States are not required to update the Committee on enforcement of the measures against new designations, but five States have reported freezing additional assets since January 2004. There have been no reports of listed individuals stopped at borders or prevented from acquiring arms.

48. A total of 37 States have informed the Committee that they have frozen the assets of listed individuals and entities. However, five subsequently advised that they had rescinded the order because the account holders were not on the List, and two released some of the frozen assets. Of the 37 States which took action, 32 States provided this information in their resolution 1455 reports, of which 28 were submitted in 2003 and four were submitted in 2004, two States provided this information through other correspondence, and three during the Chairman's trips. Of the 32 States that continue to freeze assets, eight have provided up-dates, seven in answer to enquiries from the Team and one during a Chairman's trip.

49. Twenty two Member States have detected, at one time or another, an individual or entity on the Consolidated List within their jurisdiction. Seven States have reported taking action against terrorists trying to enter their territory, but only one specified that the person concerned was on the Consolidated List, though he was not listed at the time he was refused entry.

50. There has been no definitive report of an attempted breach of the arms embargo, though two States have reported a possible breach.

51. The Committee may wish to consider ways to ensure that status reports on implementation and enforcement are routinely submitted by States. But it may also wish to bear in mind that many States have noted that 'reporting fatigue' is a growing concern given the increased burden of reporting to Security Council Committees on terrorism, and that the quality of reports may suffer as a result.

8. Paragraph 24 of resolution 1526 (2004): capacity-building and assistance issues

a. Areas where assistance is needed

52. Forty four States have asked for assistance but no State has said that its lack of capacity has affected its ability to implement the measures. Seven States identified a need for assistance across the board; 15 sought help updating or setting up banking systems (including on AML procedures); six identified weaknesses in border control; two asked for help with anti-arms trafficking measures. Eleven States identified technology as a problem; 10 identified a need for financial and technical assistance; 16 identified training needs in most areas of implementation; two identified security and defence as an area of need; five asked for assistance in best practices on information sharing; one sought assistance for airport security and another for maritime security. Three States said that they would inform the Committee of their assistance needs in due course, and two said that they had already communicated them to the CTC. The Team has passed the information it has collected from States' reports on their assistance needs to the CTC experts.

b. Offers of assistance

53. Seventy eight States said they could provide assistance to others. Of these, 53 offer general assistance and 25 offer help in specific areas: information sharing; intelligence sharing; arms control; legislation; anti-terrorism financing measures; cooperation to facilitate implementation; due diligence training; border control; bomb/explosives detection; post-attack investigations, and airport security. The Team has also passed this information to the CTC experts.

V. Threat assessment

54. Through their reports and direct contact with the Committee and the Team, 65 States have shown a general awareness of the threat with 37 providing a substantial comment on its nature and how it affects their own security. The remaining States may or may not have an adequate understanding of the threat, though some are likely to see it as remote to their own security and therefore low on their list of priorities. This is particularly true in relation to the Taliban threat. Seventeen States have said that they do not consider themselves at threat, and three believe that there is no regional threat.

VI. Non-reporting countries

55. Although 51 States have not submitted reports,[7] 15 have submitted a letter of explanation in which the majority have described in detail the reasons for their failure. The Team has visited nine non reporting States, spoken at meetings to representatives from 27 and has so far contacted the UN missions of all but six of the remainder.

56. Of the 51 non-reporting States, 11 are in Asia, 29 in Africa, 10 in Latin America and one in Eastern Europe. One State has suggested a regional mentor approach could help those with less capacity to meet their reporting obligations across a range of Security Council resolutions. Certain States within the African and Asian groups have asked for this kind of assistance.[8]

57. The Monitoring Team believes that those States that have not submitted their resolution 1455 report should be urged to do so to complete the reporting process requested by the Security Council. Some of these States are seemingly able to submit a report and should be in a position to provide information of wide relevance. Others may identify particular assistance needs. While not all reports are informative [illegible] not by themselves proof of implementation, the missing reports may help determine the level of commitment to the sanctions in the States concerned. The Committee may wish to look further at why some States have not reported.

58. But while the fact of non-reporting can be an indicator of a lack of commitment, the Monitoring Team has seen much evidence of a lack of capacity, some evidence of a lack of understanding of the reporting requirement and its importance, but no evidence in the non-reporting States of a lack of agreement with the focus of the 1267 Committee's work. The Al-Qaida/Taliban sanctions regime appears to enjoy universal support, at least in theory.

VII. Overall assessment of implementation

59. All States have a counter-terrorist policy and the great majority show awareness of Al-Qaida and the Taliban, though many may not have the Consolidated List as their primary focus. These States do not necessarily separate action against those on the List from action taken in general against all those they regard as terrorists. But States which have shown shortcomings in their ability to implement the sanctions, or where issues of implementation are under discussion, will need follow up. No State is likely to volunteer that its implementation of the sanctions regime is less than complete, and while the Team cannot say that any State has demonstrated a clear lack of political will, the depth of commitment may, in some cases, need further examination. An apparent lack of capacity may conceal a lack of will, and the Committee may wish to probe this further.

[7] Reports have been received from capital by the UN Missions of two African non-reporting States, but have not been officially submitted. One Asian State submitted its report on 11 July; this is being assessed.

[8] Seven of the non-reporting States in the Asian Group are South Pacific States.

60. The Team's contacts with Member States suggest that commitment to the sanctions would be enhanced by greater relevance and accuracy in the List and a sense that the sanctions regime was dynamic in tracking the changing nature of the Al-Qaida/Taliban threat.

61. The problems of the List are being addressed. On behalf of the Committee, the Team has written tailored letters to 85 States with a connection to names on the List to encourage updates. Thirty seven have replied, 23 of which have supplied additional information. The Committee has accepted 146 amendments concerning 63 names, and is considering many others. There is an increase therefore in both the quantity and the quality of the names on the List. At the same time the Committee is well aware of States' concerns about listing and delisting criteria, and desire for a closer definition of terms such as 'associated with'.

62. The Committee is considering how best to ensure that listed individuals and entities do not have time to move their assets before banks receive notification of their listing, and financial measures have generally made it much harder for listed individuals and entities to fund terrorism. But controls beyond the banking sector are more difficult to implement and enforce and are arguably as important. It seems clear that listed terrorists are still managing to raise and receive funds from sympathisers outside their immediate circle.

63. The travel ban will be helped by the increasing accuracy and relevance of the List, and by closer cooperation with Interpol, but it will require considerable international effort to solve the problem of false and stolen documents. The proper circulation of the List to vulnerable border crossings will need sustained analysis and assistance before solutions are found

64. Likewise the arms embargo will be more effective as analysis of the ways that listed terrorists are managing to acquire the means they need to launch attacks filters through to help fine-tune international efforts to stem the flow.

65. Member States continue to look to the Committee to give a lead in the global effort against Al-Qaida and the Taliban. While some are slow to respond to the Committee, an increasing number are keen to engage in its work, whether by submitting names or by promoting ideas for new areas where sanctions or other Security Council action could help stem the flow of recruits and reduce the likelihood of further attacks from Al-Qaida and Taliban-related terrorists.

Annex II

List of 50 Non-reporting countries, as at 11 July 2005

- States in **bold** are those that submitted letters of explanation.

S/N	50 Non-Reporting Countries	Comments
1.	Antigua and Barbuda	
2.	**Barbados**	
	Bhutan	Submitted its resolution 1455 report on 11 July 2005 (to be assessed).
3.	Cameroon	
4.	Cape Verde	
5.	**Central African Republic**	
6.	Chad	
7.	**Comoros**	
8.	Congo	
9.	Côte d'Ivoire	
10.	**Dominican Republic**	
11.	Equatorial Guinea	
12.	**Ethiopia**	
13.	**Gabon**	
14.	Georgia	Submitted resolution 1390 report on 20 Jan 03
15.	Ghana	
16.	Grenada	
17.	Guinea-Bissau	
18.	Haiti	
19.	Iraq	
20.	Kenya	
21.	Kiribati	
22.	Liberia	
23.	Madagascar	Submitted resolution 1390 report on 22 May 02 and Addendum on 4 Dec 02
24.	Malawi	
25.	Mali	Submitted resolution 1390 report on 13 June 02
26.	Micronesia (Federated States of)	
27.	Mozambique	
28.	Nauru	
29.	Niger	
30.	Nigeria	
31.	Papua New Guinea	
32.	**Rwanda**	
33.	Saint Kitts and Nevis	
34.	Saint Lucia	
35.	Saint Vincent and the Grenadines	
36.	**Samoa**	

S/N	50 Non-Reporting Countries	Comments
37.	Sao Tome and Principe	
38.	**Sierra Leone**	Submitted resolution 1390 report on 6 Sept 02
39.	**Solomon Islands**	
40.	Suriname	
41.	**Swaziland**	
42.	**Timor-Leste**	
43.	**Togo**	
44.	Tuvalu	
45.	Uganda	
46.	United Republic of Tanzania	
47.	**Uruguay**	
48.	Vanuatu	
49.	Zambia	
50.	Zimbabwe	